

OFFICE OF CAPITAL
POST-CONVICTION COUNSEL

5-YEAR STRATEGIC PLAN
FISCAL YEARS 2023-2027



July 6, 2021

SCOTT A. JOHNSON
EXECUTIVE DIRECTOR

Mississippi Office of Capital Post-Conviction Counsel
Strategic Five-Year Plan
2023-2027

1. Comprehensive Mission Statement

The mission of the Mississippi Office of Capital Post-Conviction Counsel (Office) is to provide effective legal representation to indigent inmates on death row in state capital post-conviction proceedings.

2. Philosophy

The Office is dedicated to adhering to the mandates of the Courts, and to ensure that the United States Constitution and Mississippi Constitution are fully enforced. This Office is completely vested in each client's interests, and it is committed to providing fervent, competent and effective assistance of counsel in an ethical and professional manner. Further, this Office is committed to treating each client with the utmost respect and professional care.

3. Relevant Statewide Goals and Benchmarks

Statewide Goal #1: Public Safety and Order

To protect the public's safety, including providing timely and appropriate responses to emergencies and disasters and to operate a fair and effective system of justice.

Relevant Benchmarks #1:

- Citizens should be confident that the Office complies with national standards for the representation of defense counsel in death penalty cases as outlined by the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases and as outlined in the Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases as developed by the ABA Death Penalty Representation Project, as outlined by Mississippi Rule of Appellate Procedure 22 and as required by Mississippi Code Annotated §§99-39-1, *et. seq.*

Statewide Goal #2: Government and Citizens

To create an efficient government and an informed and engaged citizenry that helps to address social problems through the payment of taxes, the election of capable leaders at all levels of government and participation in charitable organizations through contributions and volunteerism.

Relevant Benchmark #2:

- Engage the private bar to assist in handling indigent cases pro bono when caseloads reach a level that exceeds those that are acceptable for the representation of death sentenced individuals as defined by the American Bar Association.
- Provide the most cost-effective service without sacrificing competent and zealous representation for death-sentenced individuals.
- Reduce the amount paid for contracted cases with respect to attorney fees, outsourced investigative fees, travel, lodging and retention of experts.
- Reduce the costs associated with hiring and training employees by hiring competent people and striving to maintain their employment over the long term.
- Focus on case resolution.
- Track intake and resolution of cases.

Statewide Goal #3: Economic Development

To develop a robust state economy that provides the opportunity for productive employment for all Mississippians.

Relevant Benchmark #3:

- Maintain a fairly paid staff of competent employees, and contract with competent outside counsel at a fair rate of compensation when a conflict or workload prevents us from representing a particular death-sentenced individual.

4. Overview of the Agency 5-Year Strategic Plan

Over the next five years, the Office plans to stabilize its staff by obtaining one additional PIN for the legal assistant who now works on a contract basis. Currently, the Office only has 9 positions (with PINs) which include 5 attorneys (including the director), 1 paralegal, 1 investigator, and 2 mitigation specialists. The office plans to continue to contract out IT support and fiscal management/accounting support, as it currently appears to be more cost efficient than hiring full-time employees (with or without PINs) to perform these services.

Our former senior mitigation specialist retired effective September 30, 2020. Accordingly, consistent with our existing 5-Year Plan, we conducted a national search to locate a competent person to fill the position. Due to the lack of quality applicants by trained mitigation specialists in response to our publishing a position notice via multiple

outlets, we ultimately hired a former extern who is a licensed social worker and who has a Master of Social Work degree from the University of Mississippi.

At some point during Fiscal Years 2023-2027, ideally, the paralegal should receive a raise consistent with her (anticipated) increased knowledge base and productivity.

The Office anticipates some variation in case load but believes that a competent staff of 10 persons will be able to provide effective representation to our client base. In the event of temporary overload in this regard, the Office will contract with competent outside counsel to provide assistance on one or more cases until the case load becomes manageable in-house again.

As a result of our most recent staff attorney resignation and the lack of qualified applicants, we replaced him with a person who is not a seasoned post-conviction attorney. Accordingly, there may be certain cases on which outside experienced counsel are retained to assist our most recent hire. I anticipate any such contracts requiring that the lion's share of work be done by that staff attorney, but under the supervision of outside counsel. This should result in effective cost containment.

The Office will continue to assess the need to replace and/or upgrade technology as necessary to continue to provide the most cost-effective service as possible. The Office has contracted with a computer security company to provide training modules to attempt to avoid the loss of data and to protect against Malware, Spyware, etc.

The Office will continue to implement measures to help reduce costs associated with travel and the use of outside attorney and investigative assistance.

5. External/Internal Assessment

- a. Changes in the number of persons under sentence of death;
- b. Changes in sentencing of certain classes of individuals subject to the death penalty;
- c. Effectiveness of the Mississippi Office of the State Public Defender on the trial level to negotiate indictments from death to lesser included charges; achieving sentences of life without parole in death penalty trials; and remands on death penalty cases that are on direct appeal.
- d. Federal Courts returning cases that require additional petitions to be submitted to the Mississippi Supreme Court and/or require re-trial of either part or all of the cases;
- e. Reduction in the number of Rule 22 qualified attorneys in the private sector;
- f. Changes in State and Federal case law that affect death sentenced individuals;

regulations that affect the time period within which to file death penalty appeals.

5A. Internal Management Systems Used to Evaluate Agency's Performance

- a. Maintain a monthly output database;
- b. Yearly staff performance evaluation and assessment;
- c. Organizational chart is in place;
- d. Staff and team meetings;
- e. Monthly budget review and case reports.

Through a process of monthly staff and attorney meetings, and periodic client team meetings, the Office determines how well cases are moving through the Office and the particular needs of each individual case. This allows the Office to project the amount of funding necessary to complete necessary tasks. Cost-saving measures are then applied where possible and appropriate. Management policies are in place to address the status and progress of each case, and to monitor personnel productivity.

6.1 Agency Goals, Objectives, Strategies and Measures by Program for FY2023-FY2027

Overall Goal: Continue to provide high quality legal representation for persons convicted of capital crimes and sentenced to death. (Miss. Code Ann. §99-39-1 *et. seq.*)

Objective: To ensure that execution of death-sentenced individuals occurs only after the individual has been afforded a fundamentally fair conviction accompanied by due process, the effective assistance of counsel, and the benefits of all other safeguards afforded capital defendants under the federal and state constitutions to promote efficacy, efficiency and finality in death penalty proceedings.

Strategy: Engage in optimal performance to draft and file petitions, motions and other pleadings. Demonstrate professionalism, competency and character by participation in circuit court hearings and oral arguments before the Mississippi Supreme Court. Work as a team, not just as a staff.

Measure: Maintain current knowledge with regard to all aspects of the law that relate to death penalty cases. Timely comply with changes in the laws that affect death penalty representation. Attend continuing legal education related to capital litigation. Study federal *habeas* opinions to learn of any alleged deficiencies in our state court performance.

MISSISSIPPI OFFICE OF CAPITAL POST-CONVICTION COUNSEL ORGANIZATIONAL CHART

